IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.(C) NO. 120 /2007 Single Bench

APPLICANTS :

1. Melu Ram, S/o Raksha Ram, aged about 40 years,
2. Mangleen Bai, W/o Shri Melu Ram aged about 35 years, Both Resident – Matiyari, Thana- Seepat, District- Bilaspur (C.G.)

VERSUS

NON-APPLICANT :

1. Shri Umesh Kumar Barman, S/o Megh Nath Barman, R/o Koshrangi, Thana- Kharora, Ditt- Raipur C.G.
   ----------Driver
2. M/S S.K.P. Enginiars and associat Transport Nagar, Korbe, Ditt- Korba C.G. ----------Owner
3. The Bajaj Alliance General Insurance Company, Shiv Mohan Bhavan, Vidhan Sabha Road, Pandri, Raipur (C.G.)
   ------ Insurance Company

P.R. No. 16/1/07
Presented by Shri ..... Kashyap
dated 12/1/07

MEMORANDUM OFAPPEAL UNDER SECTION-173 OF THE MOTOR VEHICLES ACT,1988 FOR ENHANCEMENT OF THE COMPENSATION AMOUNT

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR
M.A.C.NO.120/2007

(Appeal under Section 173 of the Motor Vehicle Act, 1988)
(Single Bench; Hon'ble Mr. Justice Dhirendra Mishra)

Appellants (Claimants)

1. MeluRam, S/o Raksha Ram, aged about 40 years.
2. Mangleen Bai, W/o Shri Melu Ram, aged about 35 years.

Both residents of Matiyari, Thana Seepat, District Bilaspur (C.G.)

Vs

Non-applicants

1. Shri Umesh Kumar Barman, S/o Megh Nath Barman, R/o Koshrangi, Thana Kharora, Distt. Raipur (C.G.)
2. M/sS.K.P. Engineers and Associate Transport Nagar, Korbe, Distt. Korba, C.G.

(Owner)

3. The Bajaj Alliance General Insurance Company, Shiv Mohan Bhawan, Vidhan Sabha Road, Pandri, Raipur (C.G.)

Insurance Company

Present:
Mr. Sameer Singh, Advocate for the appellants.
None for respondent No.1 & 2, though served.
Mr. Sachin Singh Rajput, Advocate for respondent No.3.

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1)

मामला क्रमांक ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Oral Order
(20.7.2007)

The appellants/claimants have preferred this appeal against the award dated 16.1.2006 passed by learned 9th Additional Motor Accident Claims Tribunal (FTC), Bilaspur in Claim Case No.6/2006 whereby learned Claims Tribunal has awarded a sum of Rs.1,69,500/- to the parents of deceased Savitri, a child aged 7 years, who died in a motor vehicle accident dated 16.12.2005 involving Maruti Suzuki Car bearing registration number CG-12/D/5645 owned by respondent No,1, driven by respondent No.2 and insured by respondent No.3 at the relevant time.

The only ground urged by learned counsel for the appellants is that the tribunal has awarded the above sum after assessing the compensation by applying multiplier of 15 and after deducting 1/3rd from the notional income of the deceased, which was assessed at Rs.15,000/-, whereas the Hon'ble Apex Court in the matter of **Manju Devi Vs. Musafir Paswan** reported in **2005 ACJ 99 (SC)** dealing with the accidental death of 13 years old child, has applied the multiplier of 15 without making any deduction. It is also argued that apart from loss of dependency

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मामला क्रमांक.....**सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

the tribunal ought to have awarded the compensation towards loss of company.

On the other hand, learned respondent-insurer submits that just compensation has been awarded in accordance with the Second Schedule of the Motor Vehicles Act, 1988 (for short 'the Act'), as per Section 163A the same within the structured formula and theeofre, no interference is called for. Reliance is placed on the matter of **New India Assurance Co. Ltd. Versus Satendar and Ors** reported in **2007 SAR (Civil) 1**.

It is not in dispute that the instant claim petition was preferred by the claimants under Section 163A of the Act, which reads thus;-

> "163A. **Special provisions as to payment of compensation on structured formula basis.- (1)** Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of the motor

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मामला क्रमांक.....**सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

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vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be."

In the matter of Manju Devi (supra) there is a reference to the judgment of Hon'ble Supreme Court in the matter of **U.P. State Road Trans. Corpn. V. Trilok Chandra** reported in **1996 A.C.J. 831** in which it has been held thus;

"*It was rightly clarified that there should be no departure from the multiplier method on the ground that section 110-B, Motor Vehicles Act, 1939 (corresponding to the present provision of section 168 (1), Motor Vehicles Act, 1988) envisaged payment of 'just' compensation since the multiplier method is accepted method for determining and ensuring payment of just compensation as it is the method which brings uniformity and certainty to awards made all over the country*"

In the matter of Satendar (Supra) the Hon'ble Apex Court while considering the compensation payable to the legal

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

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	representatives of a child aged 9 years who died in a motor vehicle accident, after considering various judgments delivered from time to time, has reduced the compensation from Rs.3,40,000/- to Rs.1,80,000/- with interest @ 7.5% from the date of filing of petition. Taking into consideration that the claim petition was under Section 163A of the Act and further considering that the compensation has been assessed in accordance with the Second Schedule of the Act after making deduction of 1/3rd from the notional income, this Court is of the opinion that the ends of justice would be served if the award is enhanced from Rs.1,69,500/- to Rs.2,00,000/- with interest @ 6% p.a. from the date of filing of claim petition. Accordingly, the appeal is partly allowed and an additional sum of Rs.30,500/- is awarded to the claimants in addition to the amount already awarded passed by the tribunal. The insurance company shall deposit with the tribunal this additional amount within one month from today. **Sd/-** **Dhirendra Mishra** **Judge**	

GRPRJ — FS/246— 2/2007 — 50,000.